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ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

FRANK DINUCCI, JR.,

Defendant.

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x

SEALED INFORMATION

17 Cr. ____ ()

18 CRIM 332

Judge Hellerstein

COUNT ONE

(Conspiracy to Commit Securities Fraud and Wire Fraud)

The United States Attorney charges:

1. From in or about 2012 through in or about 2015, FRANK DINUCCI, JR., the defendant, worked as a salesman at a broker-dealer in New York, New York ("Broker-Dealer-1"). From in or about 2015 through 2016, DINUCCI worked as a salesman at another broker-dealer in New York, New York ("Broker-Dealer-2"). DINUCCI specialized in structured credit instruments, such as residential mortgage backed securities ("RMBS").

2. At all times relevant to this Information, Fund-1 was a New York-based hedge fund that invested in, among other things, structured credit. Fund-1 was a client of FRANK DINUCCI, JR., the defendant.

3. At all times relevant to this Information, Fund-1 calculated its net asset value ("NAV") at the end of each month and sent that NAV to its investors. In connection with the

calculation of Fund-1's NAV, employees of Fund-1 solicited marks for various securities from brokers, including FRANK DINUCCI, JR., the defendant. Employees of Fund-1 frequently dictated the marks for securities to DINUCCI, and DINUCCI sent the requested marks back to Fund-1. The marks that employees of Fund-1 requested, and that DINUCCI sent back to Fund-1, were frequently at artificially inflated levels to aid individuals at Fund-1 in artificially reporting their NAV.

Statutory Allegations

4. From at least in or about 2015 through in or about 2016, in the Southern District of New York and elsewhere, FRANK DINUCCI, JR., the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, to wit, securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5; and wire fraud, in violation of Title 18, United States Code, Section 1343.

5. It was a part and an object of the conspiracy that FRANK DINUCCI, JR., the defendant, and others known and unknown, willfully and knowingly, directly and indirectly, by use of the means and instrumentalities of interstate commerce, and of the mails, and the facilities of national securities

exchanges, would and did use and employ, in connection with the purchase and sale of securities, manipulative, and deceptive devices and contrivances in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by (a) employing devices, schemes, and artifices to defraud; (b) making and causing to be made untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices, and courses of business which operated and would operate as a fraud and deceit upon persons, in violation of Title 15, United States Code, Sections 78j(b) and 78ff.

6. It was further a part and an object of the conspiracy that FRANK DINUCCI, JR., the defendant, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

Overt Act

7. In furtherance of the conspiracy and to effect its illegal objects, FRANK DINUCCI, JR., the defendant, committed the following overt act, among others, in the Southern District of New York and elsewhere:

a. On or about September 2, 2015, in New York, New York, DINUCCI sent an e-mail to an employee of Fund-1 with marks for various securities.

(Title 18, United States Code, Section 371.)

COUNT TWO
(Securities Fraud)

The United States Attorney further charges:

8. The allegations contained in paragraphs 1 through 3 and 7 of this Information are repeated and realleged as if fully set forth herein.

9. From at least in or about 2015 through in or about 2016, in the Southern District of New York and elsewhere, FRANK DINUCCI, JR., the defendant, willfully and knowingly, directly and indirectly, by use of the means and instrumentalities of interstate commerce, and of the mails, and the facilities of national securities exchanges, used and employed, in connection with the purchase and sale of securities, manipulative and deceptive devices and contrivances, in violation of Title 17, Code of Federal Regulations, Section

240.10b-5, by (a) employing devices, schemes, and artifices to defraud; (b) making and causing to be made untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices, and courses of business which operated and would operate as a fraud and deceit upon persons, to wit, DINUCCI caused false and misleading representations and omissions to be made to current and prospective investors regarding Fund-1's NAV, including by providing inflated marks on securities held by Fund-1.

(Title 15, United States Code, Sections 78j(b) & 78ff; 17 C.F.R. § 240.10b-5; and Title 18, United States Code, Section 2.)

COUNT THREE
(Wire Fraud)

The United States Attorney further charges:

10. The allegations contained in paragraphs 1 through 3 and 7 of this Information are repeated and realleged as if fully set forth herein.

11. From at least in or about 2015 through in or about 2016, in the Southern District of New York and elsewhere, FRANK DINUCCI, JR., the defendant, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises,

transmitted and caused to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, DINUCCI caused false and misleading representations and omissions to be made to current and prospective investors regarding Fund-1's NAV, including by providing inflated marks on securities held by Fund-1, using interstate wires.

(Title 18, United States Code, Sections 1343 and 2.)

COUNT FOUR

(Making False Statements)

The United States Attorney further charges:

12. The allegations contained in paragraphs 1 through 3 and 7 of this Information are repeated and realleged as if fully set forth herein.

13. On or about September 3, 2015, FRANK DINUCCI, JR., the defendant, entered into a deferred prosecution agreement with the United States Securities and Exchange Commission ("SEC"), in which he agreed, among other things, "to refrain for a period of one year . . . from any association with any broker [or] dealer." The one-year period was to run from on or about October 8, 2015 through on or about October 8, 2016.

14. On or about December 7, 2015, March 7, 2016, June 8, 2016, and September 6, 2016, FRANK DINUCCI, JR., the

defendant, filed written certifications with the SEC, falsely certifying that he was "not associated with any broker [or] dealer."

15. As set forth above, FRANK DINUCCI, JR., the defendant, continued to associate himself with Broker-Dealer-2, and provided marks to employees of Fund-1, during the one-year period covered by his agreement to refrain from associating with any broker or dealer.

Statutory Allegation

16. From at least in or about December 2015 through in or about September 2016, in the Southern District of New York and elsewhere, FRANK DINUCCI, JR., the defendant, in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit, the SEC, willfully and knowingly, made a materially false, fictitious, and fraudulent statement and representation, to wit, DINUCCI falsely certified in writing to the SEC that he was not associated with any broker or dealer.

(Title 18, United States Code, Section 1001.)

FORFEITURE ALLEGATION

17. As a result of committing the offenses alleged in Counts One through Three of this Information, FRANK DINUCCI, JR., the defendant, shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title

28, United States Code Section 2461, any property, real or personal, which constitutes or is derived from proceeds traceable to the commission of the offenses alleged in Counts One through Three of this Information, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offenses.

Substitute Assets Provision

18. If any of the above-described forfeitable property, as a result of any act or omission of FRANK DINUCCI, JR., the defendant,

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

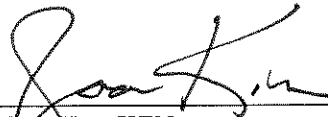
c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value;
or

e. has been commingled with other property which cannot be divided without difficulty,
it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), and Title 28, United States Code Section 2461, to seek forfeiture of any other property of

DINUCCI up to the value of the forfeitable property described above.

(Title 18, United States Code, Section 981(a)(1)(C);
Title 21, United States Code, Section 853(p);
Title 28, United States Code, Section 2461.)



JOON H. KIM
Acting United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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(15 U.S.C. §§ 78j(b) & 78ff;
17 C.F.R. § 240.10b-5; and
18 U.S.C. §§ 371, 1001, 1343, & 2.)

JOON H. KIM

Acting United States Attorney

4/6/17

Waiver and Information filed,
Deft pres. Wlatky Daniel Zimmern, AUSA, Andrea Griswold pres,
Court reporter Pam Utter pres, PRT officer pres.
Deft enters a plea of guilty to counts 1, 2, 3, 4; Sentencing/
set for July 28, 2017 @ 11:00am. Deft released on Control date
bail. \$200 PRB, cosigned by 1 FRCP by April 21st. Travel restricted
to the SONY, EDNY, District of Connecticut, District of S. Dakota, Districts
of Ohio and those District in between to travel to such Districts.
execution of an affirmation of lost passport; and no new applications for travel
documents. Hellerstein, J.